

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

In re TYCO INTERNATIONAL, LTD.
MULTIDISTRICT LITIGATION (MDL)

MDL No. 02-MDL-1335-PB

ROSEMARIE STUMPF v.
NEIL R. GARVEY, et al.
(In re TyCom Ltd. Securities Litigation)

O R D E R

Plaintiffs move for Letter Rogatory to take the deposition of James Brennan who resides in Ireland. Defendants object.

Judge Barbadoro issued a Deposition Protocol Order (document no. 765) on July 6, 2006. That order limited each side to 200 fact witnesses (§ 3) who were to be identified by a "Scheduling Committee" within 14 days of the Deposition Protocol Order. Mr. Brennan was not on that list. Document no. 806, pp. 4-5. Judge Barbadoro provided, however, that the list of 200 "may be supplemented if additional witnesses are identified by the scheduling committee upon notice to all parties, provided that the number of witnesses per side does not exceed . . . (200). Document no. 765, § 7. There is no indication that the Plaintiffs' Scheduling Committee has given notice of adding Brennan and eliminating one of its 200. The Deposition Protocol Order is an unambiguous order which plaintiffs' lead counsel is

not free to ignore. Unless counsel notifies the court of compliance with paragraph 7 of the Protocol within five (5) calendar days, I will not consider the instant motion on the merits and will deny it for non-compliance with the Protocol Order.

SO ORDERED.



James R. Muirhead
United States Magistrate Judge

Date: October 16, 2006

cc: Counsel of Record